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UNITED STATES OF AMERICA.



MANUAL
OF THE
SCHOOL LAWS
OF THE
STATE OF NEW YORK.

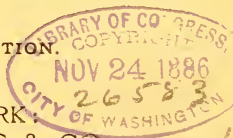
CONTAINING ALL THE ESSENTIAL POINTS PERTAINING TO CITIZENS, TEACHERS, AND SCHOOL OFFICERS, TO JAN. 1887.

By C. T. POOLER,

Conductor of Teachers' Institutes; author of "Chart of Civil Government;" "Test Speller;" and "Hints on Teaching Orthœpy."

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PREFACE.

To know the law is the first safeguard against its violation.

It is safe to say that a large majority of all school district difficulties, culminating too often in petty law suits, and oftener still in social quarrels that seldom die, grow out of an ignorance of a few points in the school law.

The object of this little classification of over two hundred points in our school law governing citizens, teachers, and school officers is to place the same in a cheap form within the reach of all.

C. T. POOLER.

DEANSVILLE, N. Y.,

January, 1884.

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EXPLANATION.

The figures at the end of statements denote the page in the Code of Public Instruction of 1868, on which will be found the law embraced in the statement. Small figures at the end of sections indicate the page in Code of 1879.

NEW YORK STATE SCHOOL LAWS.

THE SCHOOL YEAR AND THE ANNUAL SCHOOL MEETING.

Section 1. "An annual school meeting of each school district shall be held the last Tuesday of August in each year, and unless the hour and the place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school-house at seven o'clock in the evening." Laws of 1883.

"This act shall take effect on the first day of January, 1884."

§2. An act in relation to the election of officers in certain school districts (those containing 300 or more children of school age), is amended and is as follows :

"Such election shall be held on the Wednesday next following the last Tuesday in August

in each year, between the hours of twelve o'clock, mid-day, and four o'clock in the afternoon. All district officers must be elected by ballot." Laws of 1883.

§3. The school year expires on the twentieth day of August in each year.

"The trustees of each school district shall, between the twentieth day of August and the last Tuesday of August in each year, make and direct to the School Commissioner, a report in writing, dated on the twenty-first day of August of the year in which it is made, and shall sign and certify it, and deliver it to the clerk of the town in which the school district is situated." Laws of 1884.

§4. "The annual meeting of the Board of Education of every union free school district, shall be held on the first Tuesday of September in each year." Laws of 1883.

VOTERS AT SCHOOL DISTRICT MEETINGS.

§5 By the laws of 1886, there are three classes of persons who may vote, as follows :

"Every person of full age residing in any

neighborhood or school district, and entitled to hold lands in this state, who owns or hires real property in such neighborhood or school district, liable to taxation for school purposes, and every resident of such neighborhood or district, who is a citizen of the United States, above the age of twenty-one years, and who is the parent of a child or children of school age, some one or more of whom shall have attended the district school for a period of at least eight weeks within one year preceding, and every such person not being the parent who shall have permanently residing with him or her such child or children, and every such resident and citizen as aforesaid, who owns any personal property assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value, exclusive of such as is exempt from execution, and no others, shall be entitled to vote at any school meeting held in such neighborhood or district." Laws of 1886.

The ownership of real estate by a wife, in her own name, does not make her husband

a voter in the district, even though he paid taxes on the property, or paid the purchase money therefor. 561. (Code of 1879.) *Supt. A. B. Weaver.*

CENSUS OF CHILDREN OF SCHOOL AGE.

§6. The enumeration of children of school age, over five and under twenty-one years of age, residing in the district, shall be taken on the thirtieth day of June in each year. Laws of 1883.

SCHOOL MEETINGS.

§7. A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purpose for which it is called. Notice of at least five days shall be given, and must be served on each inhabitant of the district. But an annual meeting may adopt a resolution prescribing some other mode of giving notice, which shall continue in force till rescinded. 96. 40. 31.

§8. A district clerk cannot authorize any other person to call a school meeting. 329. 380.

§9 A district meeting is not bound by strict parliamentary rules ; it makes its own. 338. 418.

A District Meeting has no power to vote a tax to purchase an organ for the use of the school.—*Supt. A. B. Weaver.* 1869.

§10. A chairman of a school district meeting is entitled to a vote on all questions involving the levying of a tax. 435. 557.

§11. When a new district is to be formed the School Commissioner shall prepare the notice ; and six days' notice shall be given. 92. 201.

§12. A tax for the purchase of a site for a school-house, cannot be voted to be raised by installments. 114, 378. 482.

§13. A tax for building, hiring, or repairing a school-house may be voted to be raised by equal installments. The vote must be taken by recording the ayes and noes. 121, 378, 436. 227.

§14. A moderator (chairman) of a district meeting has the same right to vote as though he did not preside. 439. 557, 561.

§15. Trustees of a union free school must be elected by ballot. 427. 550.

§16. A school district has no power to vote a tax for building a school-house and public hall combined. *Supt. Gilmore.* 1874. 427.

§17. An election will not be set aside because of illegal votes when they do not affect the result. 433. 390.

§18. "No school-house shall be built in any school district in this state, until the plan of such school-house, so far as ventilation, heat, and lighting are concerned, shall be approved in writing by the School Commissioner," in whose district such school-house is to be built. Laws of 1883.

TRUSTEES.

§19. A school trustee holds his office one year, and till his successor is elected; where there are three trustees, the office is held three years. 126. 37.

§20. If a district changes from three trustees to one, it can have but one trustee thereafter, (126); until by a two-thirds vote at an

annual meeting, it shall resolve to have three trustees instead of one. Laws of 1878. 38.

§21. Neither the town supervisor nor a school commissioner can be trustee ; and no trustee can hold the office of district clerk, collector, or librarian. 125. 37.

§22. A trustee may resign in writing to the supervisor of his town. 128. 39.

§23. If a vacancy in the office of trustee is not filled within thirty days after its occurrence, by the district, the supervisor of the town may fill the same by appointment. 127. 38.

§24. A trustee may be removed from office for willful neglect of duties, by the Supt. of Public Instruction. 420, 422. 538.

§25. A trustee cannot be teacher in his own district. 416. Also decision of Supt. A. B. Weaver, 1871. 546.

§26. A trustee may appoint a district clerk, collector, or librarian, to fill a vacancy in the office. 127. 39.

§27. The trustee has the sole custody of

the school-house and appurtenances, (136, 358), and of the district library. 202. 242.

§28. The trustee is the only person empowered to exercise authority as to what text-books shall be used in the common school. 27, 28.

§29. The trustee alone has authority to expel a pupil from school for habitual misconduct, or when afflicted with a contagious disease. 131, 132. 237.

§30. A trustee may permit the school-house, when unoccupied, to be used for educational purposes or for religious meetings; but if one of three trustees objects to such use it cannot be permitted. 148, 348, 358. 253.

§31. All pupils in all schools supported by public money, or under State control, shall be instructed in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system. And no certificate to teach shall be granted to any person who has not passed a satisfactory examination in said studies. Laws of 1884.

§32. The trustees may expend in necessary and proper repairs of each school-house under their charge a sum not exceeding twenty dollars in any one year ; and they may also expend a sum, not exceeding fifty dollars, in the erection of necessary outbuildings, when the district is wholly unprovided with such buildings, upon the direction of the school commissioner in whose district such school-house is situated, or of the State Superintendent of Public Instruction. They may also make any repairs, and abate any nuisances, pursuant to the direction of the school commissioner as hereinbefore provided, and provide fuel, pails, brooms, and other implements necessary to keep the schoolhouse or houses clean and make them reasonably comfortable for use, and not provided for by a vote of the district ; and may also provide for building fires and cleaning the school-room by arrangement with the teacher or otherwise. They shall provide the bound blank-books for the entering of their accounts and the keeping of the school lists, the records of the district,

and the proceedings of district and trustee meetings, and they may expend in the purchase of dictionary, maps, globes, or other school apparatus, a sum not exceeding fifteen dollars in any one year. Whenever it shall be necessary for the due accommodation of the children of the district, they may hire temporarily any room or rooms for the keeping of schools therein. Any expenditure made or liability incurred in pursuance of this section shall be a charge upon the district. Laws of 1886.

§33. When directed by the school commissioner the trustees may abate any nuisance, not to exceed in cost twenty-five dollars, and expend two hundred dollars in repairing a school-house, and levy a tax for the same. 22, 146. 252.

They may at any time levy a tax for the balance of teacher's wages, after the public money has been expended. 137, 145.

§34. The trustee is the only person authorized to make a legal contract for the district, or to accept work done, he therefore must

be associated with all committees appointed by the district for building or repairing a school-house, etc. 418, 419, 414, 139. 536.

He must accept a new building erected for the district before it can become the legal property of the district. (359.) Trustees have no right to sell an old school-house, when a new one has been built, unless instructed to do so by a vote of the district. 359. 456.

§35. Trustees have sole power to hire teachers and determine the wages to be paid (136, 141), and they are not bound by a vote of the district in regard to the same. 395, 397. 518.

§36. A trustee cannot legally employ a teacher who has not an unexpired license to teach (140); and if he does so, the teaching by such a person is a private, not a public school, which cannot be paid for by tax or public money. 133, 362. 238, 456.

§37. Trustees cannot legally employ a teacher who is related to either of them within two degrees, without the approval of a two-

thirds vote of those present and voting at a district meeting duly called. 136. 242, 523.

The disability of relationship does not apply to union free schools. 401.

A sole trustee cannot hire a teacher for a longer time than the close of the term commencing next preceding the time of the expiration of his office, without first having the approval of the majority vote at a district meeting. Three trustees and boards of education may hire a teacher for one year, but not for a longer time. Laws of 1879. 242.

§38. Trustees may dismiss a teacher for a violation of contract (406), and for gross immorality in conduct or language in the school-room. 403. 526.

§39. The trustee has sole authority to allow non-resident pupils, or adult persons residing in his district, to attend the school, and to fix the terms of tuition; the consent should be in writing. 131, 352, 354. 437.

§40. Any trustee who applies, directs, or consents to the application of public money, or money raised by tax, to the payment of

an unqualified teacher, thereby commits a misdemeanor. 133. 239.

§41. Trustees may, in certain cases, make an original assessment of land, by giving twenty days' notice to the party concerned. 180, 373, 372. 294.

§42. The town assessment roll, as reviewed and adopted by the assessors, is complete as the last assessment roll of the town for all school purposes. 374, 384. 479.

§43. Trustees may modify or correct a tax-list any time before delivery to the collector. 167. 271.

§44. A school district cannot take a perpetual lease for the site of a school-house. 367. 470.

§45. A warrant for the collection of a tax voted by the district shall not be delivered to the collector till the thirty-first day after the tax is voted ; but a warrant for the collection of a tax not voted may be delivered to the collector at any time. 167, 193. 53.

§46. Any person who shall willfully disturb, interrupt, or disquiet any district school,

or school-meeting in session, or any persons assembled with the permission of the trustees of the district, in any district school-house, for the purpose of giving or receiving instruction, shall forfeit twenty-five dollars.

234, 235. 74.

§47. Trustees have no power to levy a tax to repair a condemned school-house. Supt.

A. B. Weaver, 1871. 462.

§48. A school-house site cannot be changed by a vote at an annual school meeting. It can be done only at a special school-meeting called for that purpose. Supt. A. B. Weaver, 1869. 466.

§49. Trustees cannot make an original assessment of railroad property. Supt. A. B. Weaver, 1873. 501.

§50. A trustee cannot legally give his consent for the alteration of his school district, when such alteration would set himself or his property into another district. 313. 396.

§51. Parcels of land bought of one or more parties, but all connected with the original farm upon which the owner resides, are tax-

able as one farm in the district of his residence. 380. 489.

§52. Trustees have power to levy a tax for building a school-house in place of one condemned, without a vote of the district (mode of procedure). 23. 10.

§53. Trustees have full discretionary power in the matter of prescribing a course of study in the school under their charge. Supt. A. B. Weaver, 1870. 438.

§54. A trustee cannot be permitted to fix his own price for fuel furnished by himself for the district. 424. 535.

§55. The official act of two trustees, without notifying or consulting the third, is illegal and void. 416 521.

TEACHERS.

§56. In law a *qualified* teacher is a person who holds an unexpired license to teach ; without such license, he is *unqualified*. 132, 133. 41.

No person shall be deemed to be qualified who is under the age of sixteen years. Laws of 1885.

§57. A teacher cannot make a legal contract for a school unless he holds an unexpired license to teach. 133. 529.

§58. A teacher who commences a school without a license, is liable to be discharged at any moment ; by so doing he annuls his contract, which is not renewed by his obtaining a license subsequently ; he must make a new contract. 410, 411. 529.

§59. A teacher cannot be legally employed in a school if he is related within two degrees, by blood or marriage, to any trustee of the district. See §37. 524, 242.

§60. Uncles and cousins of any person are not related to him within two degrees. 401. 250.

§61. A contract made by a teacher with trustees separately, is illegal and void ; there must be a meeting of the Board of Trustees to make a legal contract. 396, 397, 398. 519.

§62. A teacher cannot make up lost time by teaching on a holiday, without the consent of the trustees, 402. 522.

§63. The legal holidays are : New Year's

Day, Washington's Birthday, Decoration Day, Fourth of July, General Election Day, Thanksgiving Day, and Christmas Day. Also any other day that has been set apart by the state, or nation, as a day of fasting and prayer. Laws of 1875. 92.

§64. A teacher cannot legally close his school for a single day without the consent of the trustees ; if he does so, he abandons his contract. 406. 528.

(Note.—I am informed that the Department has held that if the school be closed temporarily, on account of the sudden illness of the teacher, such closing without the consent of the trustee does not forfeit the contract.)

§65. A teacher may close his school to attend the teachers' institute in the county in which he is teaching, without violating his contract, and he is entitled to full wages for such attendance at the institute. 226. 327.

§66. A teacher has no authority to expel a pupil from school ; the trustee alone has such power. 131, 132. 237.

§67. In union free school districts a pupil may be expelled by *order* of the Board of Education. 431. 548.

§68. A teacher may inflict corporal punishment upon a pupil for the purpose of correction. 408, 409. 506.

§69. The infliction of cruel punishment is good cause for annulling a teacher's certificate. 407. 529.

§70. The Department will annul a teacher's certificate for cruel and unreasonable discipline in the government of a school. 407. 529.

§71. The teacher is legally responsible for the safe-keeping of the school register. 411. 512.

§72. The refusal to grant a certificate because of the teacher's habits of profane swearing, is justified. Supt. A. B. Weaver, 1874. 510.

§73. The failure of a teacher to produce a certificate of qualification, demanded by the trustee, justifies the discharge of the teacher. Supt. N. Gilmour, 1876. 529.

§74. The authority of trustees and of teachers over pupils ceases after the close of the school and their departure from the school premises. Supt. N. Gilmour, 1875.

434.

§75. A teacher's license will be revoked for unjustifiable severity in corporal punishment. Supt. A. B. Weaver, 1872. 529.

§76 Trustees may summarily dismiss a teacher for a violation of his contract, or for gross immorality in the school. 402, 403. 526.

§77. A teacher's certificate may be annulled, if on a re-examination by the commissioner, he be found incompetent. 34. 10.

§78. On charges made affecting a teacher's moral character, after ten days' notice to the teacher, the commissioner must, if on an examination he find the charges sustained, annul the teacher's license by whomsoever granted; and if it be a state certificate, or a normal school diploma, he must forthwith notify the State superintendent of all the facts in the case. 35. 10.

§79. Holders of State certificates are not

exempt from examination by local authorities, if the trustees require it. 411. 510.

§80. Teachers have no authority to change the text-books in a school, or to introduce new ones. 27, 28. 364.

A teacher cannot dictate as to the time and place for his examination. 510.

A teacher's license should be annulled for intemperance. 410. 506. (Code of 1879.)

§81. A contract, illegal in its inception, may be ratified by acquiescence of all the trustees and fulfillment by the teacher. Supt. A. B. Weaver. 510.

§82. A teacher is not entitled to compensation for building fires if it is not mentioned in the contract. Supt. A. B. Weaver, 1868. 513.

§83. The trustees are ordered and directed to pay the teacher for time spent, during the term, in attendance at a Teacher's Institute. Supt. A. B. Weaver, 1869. 514.

§84. Trustees cannot offset a private claim against the wages of a teacher for services in teaching. Supt. A. B. Weaver, 1873. 514.

§85. A commissioner has no right to withhold a certificate from a teacher found competent, because he intends to teach some particular school disapproved by the commissioner. Supt. A. B. Weaver, 1869. 509.

§86. The annulment of a teacher's license for want of ability to teach, without a re-examination, is illegal. Supt. A. B. Weaver, 1869. 507.

§87. In law a "month" means a calendar month of thirty days. If a teacher hires out to teach by the month, he must teach thirty days, less the Sundays, legal holidays and the Saturdays, to which the teacher is entitled, occurring therein. 402. 522.

§87½. When a school is closed for repairing school-house, during term, the teacher is entitled to same wages during such time, as though it had not closed. Supt. W. B. Ruggles, 1885.

When a pupil is suspended for absence,—if the parent excuses the absence, the pupil must be admitted to the school. Neither teacher nor trustee has any right to demand

the cause of such absence. Supt. Ruggles, 1885.

When a school is closed by the authorities because of a contagious disease in the vicinity, the teacher is entitled to full pay during such time as the school is closed. Supt. Jas. A. Morrison. 1886.

A teacher has the right to prohibit the use of tobacco on the school premises. Supt. Jas. E. Morrison, 1886.

DISTRICT CLERK.

§88. The district clerk must make and preserve the records of the proceedings of all school meetings in the district in a book provided for that purpose. 129. 235

He must post notices of all school meetings, (and if an adjourned special meeting is for a longer time than one month, must re-post notices for such meeting), at least five days before such meeting (129) ; if it be for a special meeting, he must notify each inhabitant of the district by reading to him the notice, stating the objects of such meeting. 94, 96.

§89. He must notify all persons elected to district offices of their election, and report the names and post-office address of such persons to the town clerk of his town or forfeit five dollars. 129. 235.

§90. A district clerk cannot appoint a deputy to act for him. 329, 342. 380.

§91. He must deliver all district books and papers in his possession to his successor in office, under a penalty of fifty dollars. 129. 39.

DISTRICT COLLECTOR.

§92. The district collector must give a bond with sureties, accepted by the trustees, before he can legally enter upon the duties of his office (193); and by neglect to execute such bond he vacates his office. (127.) 38.

§93. If a collector, not having executed the required bond, receives a warrant from the trustees for the collection of taxes, he cannot enforce the collection from those who refuse to pay, and the trustees become liable for all losses which the district may thereby sustain (303). Also letter from Supt. A. B.

Weaver, case, dist. No. 11, Paris, Oneida Co. 382.

§94. The collector is the treasurer of the district, and has no right to pay out moneys except on the written order of the trustees, (302, 303); and he should not pay over moneys to the trustees. 297.

§95. The collector must give two weeks' notice, posted in three places in the district, one of which must be on the school-house door, before he can collect taxes; but during said two weeks he may receive taxes, taking one per cent. fees thereon. In case he levies on and sells property, he has ten cents per mile traveling fees. Laws of 1871. 53.

§96. Any goods and chattels lawfully in the possession of a delinquent tax-payer, may be seized and sold by the collector, though such delinquent be not the lawful owner thereof (191); and no claim of property made thereto by any other person shall be available to prevent such sale. 192. 291.

§97. If a trustee assess the property of a person not taxable, the collector is liable as

a trespasser if he collect a tax thereon.

444. 573.

§98. A collector is responsible for all losses to the district occasioned by his neglect of duty. 302. 297.

§99. A collector's warrant may be renewed once by the trustees ; but any subsequent renewal requires the written consent of the supervisor. 196. 296.

§100. A collector is not under any circumstances authorized to sell real estate. 303. 384.

LIBRARIAN.

§101. The librarian has the supervision of the school library (130), and cannot be trustee (125). For full particulars as to district libraries read from page 196 to 211 in the Code of 1868. 56.

TOWN CLERK'S DUTIES UNDER THE SCHOOL LAW.

§102. It is the duty of the town clerk to preserve all books, records, and papers of his office touching common schools. To receive from the supervisor and record the

certificates of apportionment of school moneys to the town ; to forthwith notify the trustees of the several school districts of the fact. 72. 181.

§103. To see that all trustees deposit with him at the proper time, their annual reports, and to deliver the same to the school commissioner ; to deliver to the trustees all blanks, books, and papers, left with him for that purpose by school officers. 72. 182.

§104. To receive and record the accounts of the supervisor of all school moneys presented to the town auditors and their action thereon ; to record in the same book the supervisor's final account of such moneys, and to deliver a copy of the same to such supervisor's successor ; to receive from the outgoing supervisor and file and record in the same book the county treasurer's certificate of the approval of such successor's bond. 72. 182.

§105. To act when called upon in the alteration of school districts ; to receive and preserve the books, papers, and records of

any dissolved school districts. 73. 183.

§106. To perform any other duties imposed by the school law. 73. 183.

§107. His services and expenses for such duties are a town charge, to be audited as such and paid by the town. 73. 183.

DUTIES OF SUPERVISOR UNDER THE SCHOOL LAW.

§108. The supervisor shall receive and copy the school commissioner's certificate of apportionment of school moneys for his town; file the original certificate with the town clerk; execute a bond in double the amount of such moneys, accepted by the county treasurer, draw said moneys from him and pay the same to teachers on the order of trustees. 62. 172.

§109. He can use no discretion in the matter of paying over such money on a trustee's order. 412. 474.

§110. He shall in like manner receive and disburse moneys from gospel and school lots. 64. 23.

§111. He shall on the first Tuesday in March report to the county treasurer all moneys in his hands not drawn out, and the districts for which it is held. 68. 23.

§112. He must sue for and receive all penalties which under the school law inure to the benefit of common schools in his town. 69. 179.

§113. He may accept the resignation of a trustee (128); and after a vacancy of thirty days in the office of trustee in his town may appoint a trustee to fill the same. 127. 39.

§114. In concurrence with the school commissioner he may condemn a school-house as unfit for use. 22. 9.

§115. He shall when legally called on, act with the school commissioner and the town clerk in the matter of the alteration of a school district. 69. 179.

§116. His written consent is necessary for changing the site of a school house, stating that in his opinion such change is necessary, before the change can be made. 122. 36.

§117. His written consent is necessary for

the renewal of a collector's warrant after the same has been previously renewed. 197. 296.

§118. He must sell the property of a dissolved school district. 89. 198.

§119. In certain contingencies he has power to call a district meeting. 97. 206.

SCHOOL COMMISSIONER.

§120. The school commissioner is elected at the annual election in November ; enters upon the duties of his office the first day of January next following, and holds his office three years and until his successor qualifies. 19. 7.

§121. He may vacate his office by filing his resignation with the county clerk, or by removing from the county, or by accepting the office of supervisor, town clerk, or trustee of a school district. 20.

A vacancy in the office may be filled by appointment by the county judge ; if there be no county judge, the State Superintendent shall make the appointment. 20. 7.

§122. For certain specified causes a school

commissioner may be removed from office, or may have his salary withheld by the State Superintendent. 16. 21. 8.

After the first day of October, eighteen hundred and eighty-five, every school commissioner shall receive an annual salary of one thousand dollars. Laws of 1885.

§123. He cannot act as an agent for any author, publisher, or bookseller, nor receive any gift for his influence in recommending or procuring the use of any book, or school apparatus, or furniture of any kind whatever ; any violation of this act is a misdemeanor, and will subject the commissioner to removal from office. 21. 8.

§124. It is the school commissioner's duty to examine and license persons to teach. (23.) To visit all schools in his district as often in each year as shall be practicable. (22.) To annually hold a teacher's institute in his county. (225.) To distribute all school blanks, papers, and registers among his several school districts. To collect the trustees' annual reports and report abstracts there-

from to the State Superintendent at the times prescribed. (40.) To apportion the school moneys among his districts, according to instructions, on the third Tuesday in March in each year, (54.) To amend if necessary the records of school district boundaries. 22, 319. 8.

§125. He may re-examine a teacher, and if he find him deficient in learning or ability, annul his certificate. 23, 34. 10.

§126. It is his duty to examine any charges affecting a teacher's moral character (23), giving the teacher at least ten days' notice prior to a hearing (36), and if the charges are sustained, to annul such teacher's certificate and to declare him unfit to teach. 24, 35. 10.

§127. Every school commissioner has power to take affidavits and administer oaths in all matters pertaining to common schools, but without charge or fee. 38, 10.

§128. School commissioners alone have authority to form or alter school districts (319); and the order for such alteration must recite the consent or refusal of the trus-

tees of the affected districts. 310, 318. 398.

§129. The annulment of a school district rests with the commissioner (320); and a district is not annulled until all its parts are annexed to adjoining districts. 318. 404.

§130. The commissioner must call the first meeting for the erection of a new school district. 92. 201.

§131. He may direct trustees to abate any nuisance upon school premises, at a cost not to exceed twenty-five dollars; and may direct the trustees to repair a school-house, at a cost not to exceed two hundred dollars. 22. 9.

§132. He may in concurrence with the supervisor of the town condemn a school as unfit for use for school purposes. 22. 9.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

§133. The office of the State Superintendent of Public Instruction is continued and the term of said office shall be three years, commencing hereafter on the seventh day of

April. Such superintendent shall be elected by joint ballot of the Senate and Assembly on the second Wednesday of February next preceding the expiration of the term of the then incumbent of said office, and on the second Wednesday of February next after the occurrence of any vacancy in the office. (1886.)

He shall appoint a deputy superintendent. In case of a vacancy in the office, the deputy superintendent shall act as superintendent, and in case of a vacancy in both offices at the same time, the governor shall appoint a superintendent. 2. Laws of 1883.

§134. He is, *ex-officio*, a trustee of Cornell University and of the New York Asylum for Idiots, a Regent of the University, and Chairman of the Executive Committee of the State Normal School at Albany. He has the supervision of all the other normal schools and the common schools in the State, and provides for the education of Indian children of the State. 4. 2.

§135. He must submit to the Legislature

an annual report, stating the condition of the common schools and of all other schools and institutions under his supervision and visitation, the estimates and accounts of expenditures of school moneys, and his apportionment of school moneys. 15. 3.

§136. He may for certain causes remove a school commissioner from office (16, 21), or withhold his order for the commissioner's salary, which being withholden, shall be forfeited. 21. 5.

§137. He may for certain causes remove a trustee from office. 420. 422. 5.

§138. He may grant or revoke certificates of qualification to teach. 15. 5.

§139. " All questions relating to the holding of school district meetings, and any and all official acts of school officers, trustees, commissioners, supervisors, or others, relating to the conduct of common schools, or concerning any matter, act, or duty, required or performed, under the law providing for the organization and maintenance of common schools, or any law relating or pertaining

thereto, may be presented on appeal to the superintendent of public instruction." 229 and 452.

§140. The decision of such superintendent shall be final and conclusive, and not subject to question or review in any place or court whatever. 229, 452.

TEACHERS' INSTITUTES.

§141. All schools in school districts and parts of school districts, not included within the boundaries of an incorporated city, shall be closed during the time a teachers' institute shall be in session in the same county in which such schools are situated. Laws of 1885.

§142. The statute provides that "all schools in school districts and parts of school districts not included within the boundaries of an incorporated city shall be closed during the time a teachers' institute shall be in session in the same county in which such schools are situated," etc. It may be noticed that this is not advisory language, but mandatory.

A trustee is not at liberty to continue the school during the week an institute is being held. He cannot pay a teacher *for teaching* during such week. The law does provide, however, that a teacher shall be given the time for attending the institute without deduction of pay. Any contract, therefore, entered into between the trustee and teacher which is in violation of this statute is void to that extent at least. It is the purpose of the law to bring all the teachers into the institutes, and to that end it provides that there shall be no school held during the time of the continuance of the institute and that the district shall pay the wages of the teacher during such time, in order that such teacher may be able to attend the institute. On the other hand, a teacher is entitled to pay during the institute week only for such time as he may attend the same. If present but one day, he cannot draw but one day's pay. And if there should be a case where a teacher is so devoid of moral sense as to undertake to deceive the commissioner or trustee, the case would be a

very proper one for the revocation of the license to teach. Not only the letter, but the spirit and intent of the law upon this subject must be fully observed and the Department will sustain the commissioners in compelling such observance. SUPT. A. S. DRAPER, 1886.

VOTERS AT SCHOOL MEETINGS.

See Section 5.

§143. By the provisions of the act quoted, there are four classes of persons entitled to vote at school meetings in this state.

1st. *Every person* of full age, who is a *resident of the district, entitled to hold lands in this state who either owns or hires* real estate in the district liable to taxation for school purposes.

2d. *Every resident* of the district, *who is a citizen of the United States, 21 years of age, and who is the parent* of a child of school age, provided such child shall have attended the district school for a period of at least eight weeks within one year preceding.

3d. *Every resident of the district, a citizen of the United States, 21 years of age, not*

being the parent, who shall have permanently *residing* with him or her a child of school age, which shall have attended the district school for a period of at least eight weeks within one year preceding.

4th. *Every resident and citizen* of full age, who *owns any personal property* assessed on the last preceding assessment roll of the town, exceeding fifty dollars in value exclusive of property exempt from execution.

In either class the voter may be *male or female*. In the second class *both father and mother* are entitled to vote. In the third class (cases of children residing with others than their parents) the phrase "him or her" in the statute must be held to limit the suffrage to one person only, and that the head of the household. Therefore where husband and wife living together have such a child residing with them, the wife is not on that account entitled to vote, although she may be for other reasons.

A. S. DRAPER,
Superintendent of Public Instruction.

THE TEACHER'S RIGHTS.

1. The teacher has sole authority in the school-room and upon the school premises during school hours, as against all other persons or disturbing causes whatsoever. This is guaranteed by statute. Neither the parent nor the trustee can violate this sacred right with impunity. The penalty is fixed, certain, and severe.

This right carries with it the responsibility of a protecting care of all school property from injury or defacement. Hence the duty to see that every injury is promptly repaired, and by timely suggestions to inculcate in the minds of the pupils the principles of good taste as to their surroundings, correct principles, and their own moral obligations as to the property of others.

2. It is the teacher's right to control the seating of the pupils, and to change the same whenever the interests of the school demand it.

To organize the school according to his own judgment ; to arrange classes, times, and plans of recitation, and to change the same. The duty under this right is to give to each pupil an equal proportionate share of the time and attention of the teacher. Its abuse is to rob the little ones of such time, and to bestow it where it is less needed, upon the more advanced classes, which is a great wrong. To see that each pupil has ample time allotted for study between recitations.

3. It is the teacher's right and duty to use the best improved methods in teaching with which he is familiar, whether it be an innovation or not. (This may require careful discretion and tact in some localities.) Hence the teacher's duty to read, study, take the papers, and keep well up with the improvements of the age in which he "lives, moves," and teaches.

4. *Morally*.—The teacher has a right to a suitable, comfortable school-room, properly seated and lighted, and means for perfect ventilation for himself and pupils ; also, all

the necessary appliances and implements with which to teach, illustrate and explain to younger minds. This includes blackboards, globes, charts, maps, dictionary, etc. This right cannot be enforced. Its fulfillment may be aided or attained, perhaps, by judicious persuasion.

5. The teacher has a right to the respect, kind regard, and confidence of his pupils. This may be secured by a corresponding regard of the teacher, manifested towards his pupils at all times.

6. The teacher has a right to the respect and hearty co-operation of the patrons of the school, to sustain and encourage him in all his labors for the welfare of their children.

7. By legal decisions based upon common law, the teacher stands *in loco parentis*, that is, in the place of the parent. The largest parental rights, privileges, and authority are hereby transferred to the teacher in the school-room, carrying with them corresponding responsibilities. The teacher should remember, however, that he is not possessed of

the natural feelings of affection and sympathy of a parent towards a pupil, to modify or restrain him in his actions in any given emergency. The teacher has a right to adopt any and all necessary means and wholesome regulations for the conduct and management of the school, as a whole ; for the classes, recitations, study, and recreations, including all proper correctives for delinquencies in study or deportment. Among these means the legal decisions recognize the teacher's right to inflict corporal punishment, except in those cities where boards of education have prohibited it. This infliction should be the very last resort after all other means have failed. And, if done at all, it should be done with the greatest care and discretion on the part of the teacher.

8. By general custom the teacher has a right to suspend a pupil for continuous misconduct or open insubordination, from the privileges of the school for a single day, or long enough to consult the trustee in the matter. The writer is not aware that this

right to suspend a pupil has ever been established by a decision of the Department of Public Instruction. It has, however, received the verbal sanction, with advice to the teachers, by a Superintendent of Public Instruction.

9. There is another custom of long standing, yet of doubtful utility, and, perhaps, of questionable right ; it is the practice of detaining a pupil after the school has closed, as a penalty for a delinquency in conduct, or to learn a neglected lesson. If detained at all, it should be only for a few moments. There is a point of time beyond which the detention of a pupil may merge into a trespass. The teacher should be careful in this matter.

CHILDREN'S RIGHTS.

It must not be forgotten that while the community has recognized rights in relation to the common school, while the school as a whole has rights, and while the teacher has rights—so, too, each individual pupil, high or low, belonging to this family or

to that, has the same inalienable rights, common to all, that cannot be restricted or abused without the perpetration of a great wrong.

1. Children have a right to plenty of fresh air to breathe. However imperfect the means of ventilation may be, there are always doors and windows in the school-house, and the teacher is in part responsible for any abridgement of this right.

2. Children have a right to perfect physical comfort at all times. This is the first condition of study. This is secured by proper seats, proper position of the body, freedom to change position, whenever dictated by inconvenience or discomfort, proper temperature of the body dependent upon the temperature of the room, or the particular locality of the pupil. A frequent or continuous trespass upon this right may result in disease or other physical injury, for which the teacher is responsible.

3. A right to be cheerful and happy. This is the normal condition of childhood, and

is one of the conditions of all profitable study. Hence children are entitled to clean, neat, and pleasant surroundings in the school-room ; to kind, respectful treatment by the teacher at all times ; advice, encouragement and assistance when needed ; and freedom from personal abuse—such as words of ridicule, humiliation or contempt. Those teachers who excel in their profession, whose favorable reputation makes them known beyond the district of their labors, and whose services are always in demand, are those who have always been most careful of the rights of children under their care, and who, therefore, have merited what they have secured, a lasting place in the confidence and affections of their pupils.

PARENT'S RIGHTS.

It is the parent's right to have his children returned to him at the close of the term, with minds better educated and developed, with improved manners and morals, and with bodies uninjured in any respect by the re-

strictions to which they have been subjected in the school-room.

The parties responsible for these results are the district itself, whose representative is the trustee, the teacher, and the children themselves.



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